SUBJECT INDEX

TABLE OF AUTHORITIES

Cases

IN THE

Supreme Court of the United States

OCTOBER TERM, 1953

No. ....., Original

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS,
Complainant

v.

STATE OF LOUISIANA; STATE OF FLORIDA; STATE OF TEXAS; STATE OF CALIFORNIA; GEORGE M. HUMPHREY; DOUGLAS McKAY; ROBERT B. ANDERSON; IVY BAKER PRIEST.

MOTION FOR LEAVE TO FILE OBJECTIONS

The State of Texas, by its Attorney General, asks leave of the Court to file its objections to the motion filed herein by the State of Rhode Island for leave of this Court to file its complaint against the State of Texas, the State of Louisiana, the State of Florida, the State of California, George M. Humphrey, Douglas McKay, Robert B. Anderson, and Ivy Baker Priest, which complaint is submitted therewith.

JOHN BEN SHEPPERD
Attorney General of Texas

PRELIMINARY STATEMENT

The State of Texas appears here for the sole purpose of objecting to the motion of the State of Rhode Island and Providence Plantations for leave to file complaint.

Rhode Island's complaint and its accompanying brief in support thereof are in substance and effect, and in most instances in verbiage, identical with the complaint and arguments heretofore filed by the State of Alabama against Texas and the other states and individuals here complained of. Therefore, Texas' objections are the same in most respects.

Texas' first objection is that the complaint which Rhode Island seeks leave to file presents no case or controversy within the jurisdiction of this Court for the reasons that (1) Rhode Island's principal complaints—relating to alleged threatened injuries to its fishing industry and relating to alleged impairment of its sovereign status from possible differences in the width of the belt of submerged lands affected by Public Law 31—present nothing more than an abstract question of international political power; and (2) Rhode Island has no standing to sue in its sovereign capacity or in the capacity of quasi-sovereign or *parens patriae* because of any other reasons named in its complaint.

Texas' second objection is that leave to file Rhode Island's complaint should be denied because of the absence of the United States as a party.

FIRST OBJECTION

The Complaint Does Not State a Case or Controversy Within the Jurisdiction of This Court

Rhode Island's principal complaints—relating to alleged threatened injuries to its fishing industry and relating to alleged impairment of its sovereign status from possible differences in the width of the belt of submerged lands affected by Public Law 31—present nothing more than an abstract question of international political power

Rhode Island's most emphatic complaints are based on the same facts and argument and may be conveniently discussed in conjunction with each other. As a quasi-sovereign representative of her citizens engaged in the fishing industry, Rhode Island claims standing to sue to prevent Texas, Louisiana, and Florida from asserting rights in the Gulf of Mexico in the area between three and nine nautical miles. It is argued that such assertions, if authorized by Public Law 31, operate as an alleged repudiation of treaty obligations of the United States to limit its claims in territorial waters to a belt three miles in width from its coast, the alleged possible end result being a deprivation of rights of Rhode Island fishermen to fish in various waters within nine nautical miles of Canadian shores. (Comp., ¶¶ XVII, XXVI; Br., pp. 8, 11-13, 33-35.)

And, in support of her alleged sovereign capacity to sue, Rhode Island again devotes maximum atten-

tion to possible differences in the width of the belt of submerged lands affected by Public Law 31. In this connection, complainant says that under Public Law 31 Rhode Island, unlike the three defendant states of Texas, Louisiana, and Florida, "is not permitted to extend its territorial boundaries nine nautical miles off the coast, but is limited to a belt three nautical miles * in width and to the natural resources thereunder." (Br., p. 7.) Rhode Island's complaint here is that it "is entitled to equal treatment" with Texas, Louisiana, and Florida because both "international law and determinations of the United States Government in the conduct of its foreign relations refer to the permissible width of the belt of territorial waters as three nautical miles," and because "this rule is binding equally" on Texas, Louisiana, and Florida. (Comp., ¶¶ X, XII, XIV.) Rhode Island argues that Public Law 31 should not be construed as a statutory repeal of "three-mile" treaty obligations (Br., pp. 33-35) while at the same time tacitly recognizing a clear conflict to some extent between the terms of Public Law 31 and the three-mile rule. Complainant's prayer in this connection is that Public Law 31 be declared void "to the extent that such law is construed" to confer on Texas, Louisiana, and Florida any rights in "the maritime belt lying seaward between three and nine nautical miles from the ordinary low water mark." (Comp., p. 21 "3".)

Thus, the argument presented to support both of Rhode Island's major complaints clearly demon-

*Actually, Section 4 of the Submerged Lands Act approves and confirms a seaward boundary for Rhode Island at "three geographic miles" distant from its coast line. P. L. 31, c. 65, 83rd Cong., 1st Sess., 1953.

strates that these complaints are founded on Rhode Island's interpretation of and reliance upon former rules and determinations "of the United States Government in the conduct of its foreign relations"—specifically, the three-mile territorial waters rule. Rhode Island's predicate for each of these two complaints appears to be the anomalous idea that the political departments of the United States Government, which have exclusive power over *foreign relations*, are without power to modify their former policies in any manner whatsoever for the purpose of creating and carrying out new policies of the United States with respect to the natural resources in and under the marginal sea.*

Texas submits that both of Rhode Island's arguments relating to the width of the territorial belt affected by Public Law 31 are, in the last analysis, naked challenges to the authority of the Congress and the President to conduct foreign affairs, an incident of which is the determination of national boundaries in the marginal seas, whether for the limited purposes pertaining to utilization of natural resources which are involved in Public Law 31 or for all purposes. As such, these principal complaints present non-judicial questions which can be deter-

*Rhode Island's complaint and supporting brief consistently treat the natural resources affected by Public Law 31 separately from the moneys heretofore impounded by federal officials from the proceeds of leases covering the same natural resources. But the legal nature of these "escrow" moneys in no way differs from the legal nature of the resources themselves. Had there been no production, title to the resources now represented by the impounded moneys would have passed under Section 3(a) of the Act. Hence, no analytical advantage can be served by considering these moneys separately from the resources themselves.

mined only by the legislative and executive (the "political") branches of the Government.

This Court has so reasoned in a great variety of cases, one group of which is represented by *Foster v. Neilson*, 2 Pet. 253 (1829). In that case each party asserted a title to the same tract of land in Louisiana, the plaintiff alleging a title based on a Spanish grant during 1804. The defense was that such Spanish grants were void due to the fact that Spain had ceded the entire area between the Perdido and Iberville Rivers to France by the Treaty of St. Ildefonso (by which Spain had ceded Louisiana to France) and that this disputed area was acquired by the United States from France in the Louisiana Purchase in 1803. The meaning of the crucial provision of the Treaty, which controlled the lawsuit, was conceded by the Court to be ambiguous and was recognized by the Court to have been the subject of a lengthy dispute between the governments of Spain and the United States, the Spanish construction favoring plaintiff and the American construction favoring defendant.

In affirming a dismissal of the suit, Chief Justice Marshall pointed out that

> "In a controversy between two nations concerning national boundary, it is scarcely possible that the courts of either should refuse to abide by the measures adopted by its own government. There being no common tribunal to decide between them, each determines for itself on its own rights, and if they cannot adjust their differences peaceably, the right remains with the strongest. The judiciary is not that depart-

ment of the government to which the assertion of its interests against foreign powers is confided . . ." (2 Pet. at 307.)

And, after observing the various congressional acts respecting the disputed area, the Court added:

> " . . . If those departments which are intrusted with the foreign intercourse of the nation, which assert and maintain its interests against foreign powers, have unequivocally asserted its rights of dominion over a country which is in its possession, and which it claims under a treaty; if the legislature has acted on the construction thus asserted, it is not in its own courts that this construction is to be denied. A question like this respecting the boundaries of nations is, as has been truly said, more a political than a legal question; and in its discussion, the courts of every country must respect the pronounced will of the legislature." (*Id.* at 309.)

Subsequent decisions reiterate that national boundary matters present political questions for the executive and legislative departments and that a determination by these "political" departments is binding on the courts. *United States v. Arredondo*, 6 Pet. 691, 711 (1832); *Garcia v. Lee*, 12 Pet. 511, 516 (1838); *United States v. Reynes*, 9 How. 127, 154 (1849); *United States v. Lynde*, 11 Wall. 632, 643 (1870). Insofar as the political, or non-judicial, nature of national boundary making is concerned, these decisions have been properly distinguished from those relied on by Rhode Island which involve only questions of internal boundary between states or be-

tween a state and the United States. See *United States v. Texas*, 143 U.S. 621, 639 (1892).*

Likewise, this Court in *United States v. California*, 332 U.S. 19, 34 (1947), with reference to the identical international frontier here involved, acknowledged the binding effect upon the judiciary of assertions by the political departments of dominion over the marginal seas and the binding effect of delineations by those departments of the geographical limits of such dominion. The Court's reliance upon the principles approved in *Jones v. United States*, 137 U.S. 202, 212-214 (1890), and *In re Cooper*, 143 U.S. 472, 502-503 (1902), supports Texas' conviction that questions of boundary making in the marginal sea are indistinguishable from foreign relations issues in general and that the determination of all such issues by the political departments conclusively binds the courts and removes those questions from the scope of judicial power delegated by Article III of the Constitution. *Chicago & S. Air Lines, Inc. v. Waterman Steamship Corp.*, 333 U.S. 103, 111 (1948); *Z. & F. Assets Realization Corp. v. Hull*, 311 U. S. 470, 490 (1941) (Concurring opinion); *Wilson v. Shaw*, 204 U.S. 24, 32 (1907); *Terlinden v. Ames*, 184 U.S. 270, 288 (1902). See Field, *The Doctrine of Political Questions In The Federal Courts*, 8 Minn.

---

*If any further distinction of Rhode Island's internal boundary cases is required, it should be noted that each of them concerned a boundary of the complaining state—a matter of immediate and special interest to it—whereas, in the present case, Rhode Island is complaining about certain boundaries of Texas, Louisiana, and Florida—boundaries that have nothing whatever to do with Rhode Island's jurisdiction.

L. Rev. 485, 494-502 (1924); Weston, *Political Questions*, 38 Harv. L. Rev. 296, 315-316 (1925).

Rhode Island's concluding argument in support of its two main complaints is that assertions by Texas, Louisiana, and Florida of rights beyond the three-mile boundary are "a violation of international treaties" and that Congress' clear language in Public Law 31, releasing and confirming in the states certain rights and titles within historic seaward boundaries located within three marine leagues in the Gulf of Mexico, should not be construed to authorize any assertions beyond a three-mile boundary. This argument is obviously motivated by Rhode Island's strong preference for the national policies implemented by these treaties rather than the national policies which are implemented by Public Law 31. In any event, the argument further illustrates the non-judicial character of the questions raised in these two complaints.

In the first place, the power to decide whether the terms of Public Law 31 actually violate any international treaty is not a question for this Court. If the governments with which the alleged treaties exist are dissatisfied with this action of Congress — if *they* rather than Rhode Island are unable to rationalise the limited powers conferred by Public Law 31 beyond the three-mile boundary with the terms of our various diplomatic commitments to them — then those governments may complain or act to protect themselves. And, in such circumstances, it has long been settled that "whether the complaining nation has just cause of complaint" is not a matter for judicial determination. *Whitney v. Robertson*, 124 U.S.

190, 194 (1888). Cf. *Ware v. Hylton*, 3 Dall. 199, 260-261 (1796) (Opinion of Iredell, J.). But even conceding that certain treaties or other diplomatic agreements were in fact repudiated by congressional authority as exercised in Public Law 31, no judicial issue is presented. As stated in *The Chinese Exclusion Case*, 130 U.S. 581, 602 (1889):

> "The question whether our government is justified in disregarding its engagements with another nation is not one for the determination of the courts."

Since it is the ultimate responsibility of this Court to determine who may invoke its jurisdiction and under what circumstances, it is well within the Court's power to dismiss for lack of jurisdiction any action before it which presents only political questions. *Chicago & S. Air Lines, Inc. v. Waterman Steamship Corp.*, 333 U.S. 103 (1948); *Massachusetts v. Mellon*, 262 U.S. 447 (1923); *Georgia v. Stanton*, 6 Wall. 50 (1867). See *Coleman v. Miller*, 307 U.S. 433, 456, 460 (1939) (Concurring opinions); *Z. & F. Assets Realization Corp. v. Hull*, 311 U.S. 470, 490 (Concurring opinion).

That the Court should exercise judicial self-limitation in this instance and should deny Rhode Island leave to file is manifest from the action of the Court in respect to analogous political questions discussed above.

One other point involved in Rhode Island's primary argument as to her standing to sue should be noticed. Even if it were assumed that the complaint

relating to the Rhode Island fishing industry were not predicated on decisions exclusively within the province of the political departments, still that complaint fails to state a "case or controversy" within the cognizance of this Court. Allegations and accompanying arguments that economic interests of its citizens are in jeopardy because Rhode Island is "fearful" that the claims or actions of Texas and other states will "invite" retaliatory claims by Canada, which "might" take the form of total exclusion or "may result" in a policy of discriminatory license fees, are patently insufficient. (Comp., ¶ XXVI; Br., p. 34.) No injury, actual or threatened, is shown.

By its own language Rhode Island shows that any fear of injury to Rhode Island or its citizens is based purely upon supposition and speculation as to the *possible* effects that might result if a foreign power should seize upon this Act of the Congress as an excuse to repudiate a treaty with the United States. The Court has frequently emphasized that a suit between states "should be of serious magnitude, clearly and fully proved" before it will take jurisdiction. *Missouri v. Illinois*, 200 U.S. 496, 521 (1906); *New York v. New Jersey*, 256 U.S. 296, 309 (1921).

Further, this Court has expressly recognized that a mere potential threat of injury based upon "assumed potential invasions" of rights of a state or its people does not state a "case or controversy" of which the court may take cognizance in a suit between states or in a suit to invalidate an act of Congress. *Nebraska v. Wyoming*, 325 U.S. 589, 608

(1945); *Arizona v. California*, 283 U.S. 423, 462-464 (1931); *New Jersey v. Sargent*, 269 U.S. 328, 338 (1925).

Clearly, Rhode Island's complaint concerning possible injury to its citizen fishermen, when measured by the rules pronounced by this Court, falls far short of stating a "case or controversy."

Rhode Island Has No Standing In Its Sovereign Capacity To Question The Constitutionality Of Public Law 31

That a state as a sovereign has no authority to question the provisions of Public Law 31 relating to the extent of the territorial belt established for the purpose of developing the natural resources in and under the marginal sea was recognized in principle in *United States v. California*, 332 U.S. 19, 35 (1947), where the Court said:

> " . . . whatever any nation does in the open sea, which detracts from its common usefulness to nations, or which another nation may charge detracts from it, is a question for consideration among nations as such, and not their separate governmental units."

Therefore, any rights asserted by Texas under Public Law 31 to the natural resources in and under the portion of the marginal sea within its historic boundaries could not possibly be in derogation of the rights, if any, of the State of Rhode Island, whatever the nature of the rights claimed by Rhode Island. The extent of the territorial belt in which

Texas asserts its rights to the natural resources is a matter solely between Texas and the federal government. It is submitted, therefore, that no legal rights of Rhode Island have been invaded by the alleged assertions of Texas.

Under such circumstances it is clear that Rhode Island's complaint presents no actual controversy for determination by this Court. As stated in *Massachusetts v. Missouri*, 308 U.S. 1, 15 (1939), for there to be a justiciable controversy "it must appear that the complaining State has suffered a wrong through the action of the other State, furnishing ground for judicial redress, or is asserting a right against the other State which is susceptible of judicial enforcement according to the accepted principles of the common law or equity systems of jurisprudence."

Even if it could be said that Rhode Island has suffered injury by the alleged acts of the State of Texas under Public Law 31, it is apparent that this injury is one that is suffered by Rhode Island in common with all the other states of the Union and therefore affords no basis for the action which Rhode Island seeks to bring. This principle was established in *Frothingham v. Mellon*, 262 U.S. 447, 488 (1923), where it was said:

> "... We have no power *per se* to review and annul acts of Congress on the ground that they are unconstitutional. That question may be considered only when the justification for some direct injury suffered or threatened, presenting a justiciable issue, is made to rest upon such an act. Then the power exercised is that of ascer-

taining and declaring the law applicable to the controversy. It amounts to little more than the negative power to disregard an unconstitutional enactment, which otherwise would stand in the way of the enforcement of a legal right. The party who invokes the power must be able to show not only that the statute is invalid but that he has sustained or is immediately in danger of sustaining some direct injury as the result of its enforcement, and not merely that he suffers in some indefinite way in common with people generally."

Rhode Island argues further that its sovereign interests are adversely affected by the claims of Texas, Louisiana, Florida, and California with respect to all the natural resources in and under all portions of the marginal sea, including the area within three miles from shore. The basis of this additional contention is the idea that national sovereign interests have been actually and improperly delegated to these states by Public Law 31, because it is alleged that national sovereign interests are inseparably tied to and therefore must follow the proprietary interests expressly confirmed in the states by Public Law 31. (Comp., ¶ XXIX; Br., pp. 17-18.) This idea appears to be derived from Rhode Island's construction of this Court's holding in *United States v. Texas*, 339 U.S. 707 (1950). Texas denies that the holding of the Court in that case is properly subject to the construction which Rhode Island seeks to place upon it.

However, even if the opinion of the Court in the *Texas* case were properly susceptible of that construction, Texas is unable to perceive how this would

confer any sovereign capacity to complain on the State of Rhode Island, a purely local sovereign. Even if it could be said that these property rights in and to the natural resources of the marginal sea are inseparable from the national sovereign, the national sovereign would hold these rights for the benefit of all the people and not for the individual states as such. This was expressly recognized in the opinion of this Court in *United States v. California*, 332 U.S. 19, 40, where, in reference to the identical interests here involved, it was said that "the Government . . . holds its interests here *as elsewhere* in trust for *all the people*." (Emphasis added.) Rhode Island's status as a local sovereign in no way gives it any standing to bring a suit to enforce rights held for "all the people." If there is any such "trust" for "all the people," Congress alone may determine how it shall be enforced and administered. *United States v. San Francisco*, 310 U.S. 16, 29-30 (1940).

Rhode Island Is Without Standing To Question The Constitutionality of Public Law 31 On Behalf Of Its Citizens

Assuming, *arguendo*, that the requisite injury to Rhode Island citizens by the enactment of Public Law 31 were established, the State of Rhode Island would have no standing to enforce rights of its citizens by challenging the constitutionality of the Act. Such an action is precluded by prior decisions of this Court.

In *Massachusetts v. Mellon*, 262 U.S. 447 (1923), this Court held that an attack upon the constitution-

ality of a federal statute by a state on behalf of its citizens is not a "justiciable controversy." There, Massachusetts, asserting that it had standing to bring the suit in its sovereign capacity and also in a capacity of representative or as *parens patriae* of its citizens, sought to challenge the constitutionality of the Maternity Act. In denying the right of Massachusetts to bring the suit, the Court said:

> ". . . But the citizens of Massachusetts are also citizens of the United States. It cannot be conceded that a State, as *parens patriae*, may institute judicial proceedings to protect citizens of the United States from the operation of the statutes thereof. While the State, under some circumstances, may sue in that capacity for the protection of its citizens (*Missouri v. Illinois*, 180 U.S. 208, 241), it is no part of its duty or power to enforce their rights in respect of their relations with the Federal Government. In that field it is the United States, and not the State, which represents them as *parens patriae*, when such representation becomes appropriate; and to the former, and not to the latter, they must look for such protective measures as flow from that status." (262 U.S. at 485-486.)

This principle that a state does not have standing to attack the validity of a federal statute on behalf of its citizens was reiterated and strengthened by this Court in *Florida v. Mellon*, 273 U. S. 12 (1927). In that case, Florida sought to attack the constitutionality of a federal inheritance tax law, suing as representative of its citizens. Even though it was pointed out that there were only three states whose citizens could be adversely affected by this federal

statute and that there was no way in which Florida could secure the same benefits for its citizens as were given citizens of other states (273 U. S. at 16), the Court said:

> "Nor can the suit be maintained by the state because of any injury to its citizens. They are also citizens of the United States and subject to its laws. In respect of their relations with the federal government it is the United States, and not the State, which represents them as *parens patriae*, when such representation becomes appropriate; and to the former, and not to the latter, they must look for such protective measures as flow from that status.' *Massachusetts v. Mellon*, supra, pp. 485-486." (273 U. S. at 18.)

Rhode Island relies heavily upon *Georgia v. Pennsylvania R. R.*, 324 U. S. 439 (1945), in an attempt to escape the application of the principle clearly enunciated in *Massachusetts v. Mellon* and *Florida v. Mellon*. But *Georgia v. Pennsylvania R. R.* did not involve an attack by the State of Georgia on behalf of its citizens upon the constitutionality of a federal statute. In fact, it was just the opposite. There, Georgia was asserting rights *based on a federal statute* in seeking to protect its citizens from a price-fixing conspiracy, while here Rhode Island is attacking the validity of a federal statute.

It is significant that in *Georgia v. Pennsylvania R. R.* the Court expressly recognized this distinction between an "attack" upon a federal statute and a suit "based" on a federal statute. In categorizing the cases not within its original jurisdiction and dis-

tinguishing the case before it from *Massachusetts v. Mellon* and *Florida v. Mellon*, the Court said:

> "... Moreover, *Massachusetts v. Mellon*, and *Florida v. Mellon*, *supra*, make plain that the United States, not the State, represents the citizens as *parens patriae* in their relations to the Federal Government.
>
> "The present controversy, however, does not fall within any of those categories. This is a civil, not a criminal, proceeding. Nor is this a situation where the United States rather than Georgia stands as *parens patriae* to the citizens of Georgia. This is not a suit like those in *Massachusetts v. Mellon* and *Florida v. Mellon*, *supra*, where a State sought to protect her citizens from the operation of federal statutes. Here Georgia asserts rights based on the anti-trust laws." (324 U. S. at 446-447.)

Unlike *Georgia v. Pennsylvania R. R.*, this suit by Rhode Island on behalf of its citizens is one in which a state is attempting to protect its citizens from the effect of a federal statute, as was the case in *Massachusetts v. Mellon* and *Florida v. Mellon*. Consequently, this is an attempt by Rhode Island to represent its citizens in their relations with the federal government. This Rhode Island cannot do. In regard to these relations, the United States, not Rhode Island, stands as *parens patriae* to the citizens of Rhode Island.

Rhode Island also contends (Br., pp. 16-17) that *Missouri v. Holland*, 252 U. S. 416 (1920), and *Hopkins Savings Ass'n v. Cleary*, 296 U. S. 315 (1935),

show that a state has standing as representative of its citizens to challenge the constitutionality of a federal statute. But neither of these cases detracts from nor weakens the clear holdings of *Massachusetts v. Mellon* and *Florida v. Mellon*.

Missouri v. Holland was decided prior to the *Massachusetts* case and was there considered by the Court to be a suit, not on behalf of citizens, but to prevent an invasion of the right of Missouri to regulate the taking of wild game within its borders. See *Massachusetts v. Mellon*, 262 U. S. 447, 482 (1923). And in the *Hopkins Savings* case, the Court noted a patent distinction from the facts of the *Massachusetts* case as follows:

> ". . . The ruling [Massachusetts v. Mellon] was that it was no part of the duty or power of a state to enforce the rights of its citizens in respect of their relations to the Federal Government. Cf. *Florida v. Mellon*, 273 U. S. 12. Here, on the contrary, the state becomes a suitor to protect the interests of its citizens against the unlawful acts of corporations created by the state itself." (296 U. S. at 341.)

Texas submits that the principle that the United States, not the state, represents citizens in their relations with the federal government has been strengthened, rather than weakened, by subsequent cases, and that Rhode Island's suit on behalf of its citizens falls squarely within that principle and is controlled by it.

SECOND OBJECTION

Rhode Island's Action Is in Substance and Effect Against The United States, and, Consequently, The United States Is an Indispensable Party

The essence of Rhode Island's complaint is a challenge to the authority of the United States, under Public Law 31, to dispose of its title and proprietary interest in lands, minerals, and other natural resources of the marginal sea. All of the relief sought by Rhode Island directly involves the national sovereign's paramount rights, dominion, and power over this property. Under these circumstances, it is clear that the United States is a real party in interest since the nature of its tenure is controlling.

The Court has consistently held that in deciding whether a suit involving title or property rights is actually one against the United States, the pleadings must be tested by considering whether the relief sought, if granted, would determine rights of the United States. *Oregon v. Hitchcock*, 202 U. S. 60 (1906); *Louisiana v. Garfield*, 211 U. S. 70 (1908); *Minnesota v. United States*, 305 U. S. 382 (1939).

Such being the rule, it is apparent that the United States is the real and substantial defendant in the present case. Since the United States has given no consent in this instance and the complaint would have to be dismissed if permitted to be filed, the Court should deny leave to file the complaint. *Louisiana v. McAdoo*, 234 U. S. 627, 628 (1914).

CONCLUSION

The complaint states no case or controversy within the jurisdiction of this Court since its main points present only a political question and its allegations as a whole fail to show that Rhode Island has standing to sue either as sovereign or on behalf of its citizens. Furthermore, jurisdiction should not be taken because the United States is an indispensable party and has not been joined.

WHEREFORE, the motion for leave to file the complaint should be denied.

Respectfully submitted,

JOHN BEN SHEPPERD
Attorney General of Texas

ROBERT S. TROTTI
First Assistant Attorney General

JESSE P. LUTON, JR.
Special Assistant Attorney General

WILLIAM H. HOLLOWAY
Assistant Attorney General

PHILLIP ROBINSON
Assistant Attorney General

January, 1954

CERTIFICATE OF SERVICE

I, William H. Holloway, certify that I have served a copy of the foregoing motion for leave to file objections and objections of State of Texas to motion of State of Rhode Island and Providence Plantations for leave to file complaint on the following named individuals by mailing a copy of same to them, postage prepaid, to the following addresses:

Hon. William E. Powers
Attorney General of Rhode Island
Providence County Court House
Providence, Rhode Island

Hon. Edmund G. Brown
Attorney General of California
State Capitol
Sacramento, California

Hon. Fred S. LeBlanc
Attorney General of Louisiana
State Capitol
Baton Rouge, Louisiana

Hon. Richard W. Ervin
Attorney General of Florida
State Capitol
Tallahassee, Florida

Hon. George M. Humphrey
Secretary of the Treasury
Department of the Treasury
Washington, D.C.

Hon. Douglas McKay
Secretary of the Interior
Department of the Interior
Washington, D.C.

Hon. Robert B. Anderson
Secretary of the Navy
Department of the Navy
Washington, D.C.

Hon. Ivy Baker Priest
Treasurer of the United States
Department of the Treasury
Washington, D.C.

Hon. Herbert Brownell, Jr.
Attorney General of the
United States
Department of Justice
Washington, D.C.

WILLIAM H. HOLLOWAY

State of Texas, County of Travis

Subscribed and sworn to before me this _____ day of January, 1954.

Notary Public in and for said County and State.